

UNITED STATES DISTRICT
COURT OF MASSACHUSETTS

CHRISTOPHER P. KAUDERS, LEE C.S.
KAUDERS, AND HANNAH KAUDERS,

Plaintiffs

v.

UBER TECHNOLOGIES, INC. and
RASIER LLC,

Defendants.

CIVIL ACTION NO. 1:16-cv-11659-FDS

**DECLARATION OF PAUL-PHILLIP HOLDEN IN SUPPORT OF DEFENDANTS
UBER TECHNOLOGIES, INC. AND RASIER, LLC'S
MOTION TO COMPEL ARBITRATION AND STAY LITIGATION**

I, Paul-Phillip Holden, hereby declare and state:

1. I am over the age of 18 and I submit this declaration in support of Defendants Uber Technologies, Inc. ("Uber") and Rasier, LLC's ("Rasier") Motion to Compel Arbitration and Stay Litigation. I have personal knowledge of each fact stated in this declaration and, if called as a witness, I could and would competently and truthfully testify thereto.

2. I am a Senior Engineering Manager at Uber. My responsibilities at Uber have included developing, implementing, and maintaining aspects of the rider account-creation process discussed in additional detail below.

3. Uber was founded in 2009 in San Francisco, California. Uber has created and maintains a technology platform (the "Uber App") that allows users seeking transportation services ("Riders") to request them from independent transportation providers ("Transportation Providers") in their geographic area.

4. Rasier is a wholly-owned subsidiary of Uber that contracts with Transportation Providers to furnish them with access to the Uber App.

5. The Uber App is used by Transportation Providers and Riders in over 100 cities across the United States.

6. Uber's technology platform allows Riders to request trips from Transportation Providers across multiple vehicle and service categories depending on the Rider's preference and geographic location. These categories currently include but are not limited to UberX, UberPool, UberXL, UberBlack, UberTaxi, UberSUV, UberSelect, UberAccess, and UberWAV.

7. In order to request and pay for third-party transportation services via the Uber App, Riders must first create an online account with Uber. An account can be created from within the Uber App itself.

8. In the normal course of its business, Uber maintains records regarding when, where, and how Riders create accounts. As a Senior Engineering Manager, I have access to these records, and I am familiar with them and the manner in which they are updated and maintained. At the request of counsel, I reviewed these records and was able to identify the date, location, and method by which Christopher Kauders created an account with Uber. Mr. Kauders created an account on June 27, 2014, in the state of Massachusetts. He did so via the rider-facing, Apple iOS version of the Uber App ("iOS Rider App") using an iPhone 5. Mr. Kauders provided credit card information in connection with his account in order to pay for rides, and he has completed 157 trips using the iOS Rider App since June 2014.

9. Based on my review of records maintained by Uber in the regular course of business, I also identified the specific version of the iOS Rider App that Mr. Kauders was using

when he created his account on June 27, 2014, which was version 2.28.0 of Uber's iOS Rider App. As a Senior Engineering Manager, I am familiar with this version of the iOS Rider App.

10. As reflected in the screenshots attached as Exhibit A, the process for creating an account via this version of the iOS Rider App involved the steps set forth below. Each step is contained in a single screen on the Rider's smartphone, with no scrolling required.

- a. After successfully downloading the iOS Rider App and clicking the "REGISTER" button, the Rider was prompted on the first screen, titled "Create An Account," to enter an email address, mobile phone number, and a password. After entering the requested data on the first screen, the word "NEXT" would become enabled in the upper right-hand corner of the screen. The Rider would then click NEXT to advance to the second screen.
- b. On the second screen, titled "Create A Profile," the Rider was prompted to enter a first and last name. After entering the requested information, the word "NEXT" would become enabled, and the Rider would then click NEXT to advance to the third and final screen.
- c. On the third and final screen, titled "Link Payment," the Rider was prompted to enter their credit card or PayPal information. When the Rider moved their cursor to the credit card information field, a touchscreen keyboard would appear. On the same screen, the following notice was visibly displayed with no need to scroll down to it: "By creating an Uber account, you agree to the Terms & Conditions and Privacy Policy." The phrase "Terms & Conditions and Privacy Policy" was displayed in bold text in a rectangular box, indicating that this was a clickable button. When the button was clicked, the Rider would

be taken to a screen that contained other clickable buttons, including buttons entitled “Terms & Conditions” and “Privacy Policy.” The Terms and Conditions then in effect would be displayed when the “Terms & Conditions” button was clicked. The Rider would then click the “DONE” button, which would, in turn, trigger the successful creation of their account.

- d. Mr. Kauders could not have completed the account creation process via version 2.28.0 of the iOS Rider App without completing all three aforementioned steps.

11. Like her husband, Lee Kauders also completed the account creation process on an Apple iPhone. She did so in Massachusetts on May 13, 2015, using version 2.77.0 of the iOS Rider App.

I declare under penalty of perjury and the laws of the United States of America that the foregoing statements are true and correct.

Executed at San Francisco, California, this 7th day of September 2016.


Paul Holden (Sep 7, 2016)

PAUL-PHILLIP HOLDEN

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